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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,021	11/05/2001	Richard P. Welty	270-3038-U	8522
26096	7590	03/15/2005	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			PIZIALI, ANDREW T	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/007,021

Applicant(s)

WELTY ET AL.

Examiner

Andrew T Piziali

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) a set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on 23 February 2005. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 22-53.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

The applicant asserts that Foster teaches a layer of chrome between the nickel layer and the overlying layer in all the embodiments. The examiner respectfully disagrees. Foster discloses that the chrome layer is optional and is only present in some embodiments (see column 5, lines 17-27).

The applicant asserts that Foster does not teach or suggest an article having a nickel layer, a strike layer consisting essentially of zirconium, titanium, or zirconium-titanium alloy that directly contacts the nickel layer, and an uncoated outer layer consisting essentially of zirconium compound, titanium compound, and zirconium-titanium alloy compound that directly contacts the strike layer. The applicant asserts that Foster does not read on the current claims because Foster necessarily includes at least one of a sandwich layer (26), a reaction products layer (34), or a metal oxide layer (36). The examiner respectfully disagrees.

The inclusion of the sandwich layer (26) is simply one embodiment of the invention disclosed by Foster (see column 9, lines 6-20 and dependent claim 12). The inclusion of the reaction products layer (34) is simply one embodiment of the invention disclosed by Foster (see column 10, lines 45-57 and dependent claim 15). The inclusion of the metal oxide layer (36) is also simply one embodiment of the invention disclosed by Foster (see column 11, lines 15-27 and dependent claim 14). Layers (26), (34), and (36) are clearly optional additional layers that may be added to the inventive article of Foster. The invention disclosed by Foster, without the additional optional layers, reads on the current claims.

The applicant is directed to claim 1 of Foster. Foster does not mention a sandwich layer (26), a reaction products layer (34), or a metal oxide layer (36). Claim 1 of Foster discloses an article having an electroplated layer (13) (claim 2 specifically teaches nickel), at least one layer (22) selected from the group consisting of refractory metal and refractory metal alloy on at least a portion of the electroplated layer (claim 3 specifically teaches zirconium, titanium, or a zirconium-titanium alloy), and at least one layer (32) selected from the group consisting of refractory metal compound and refractory metal alloy compound (claim 6 specifically teaches zirconium compound, titanium compound, or zirconium-titanium alloy compound).

g-pj. 3/2/05
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